STATE OF CALIFORNIASQHEALTH AND WELFARE AGENCY PETE WILSON, Governor
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DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS
1700 K STREET
SACRAMENTO, CA 95814-4037
TTY (916) 445-1942
(916) 322-7012

April 17, 1996

ADP #96-22

TO : COUNTY ALCOHOL AND DRUG PROGRAM ADMINISTRATORS

SUBJECT: ADDITIONAL INFORMATION ON THE LOWER OF COSTS OR CHARGES PRINCIPLE

This letter provides additional information regarding the lower of costs or charges principle to supplement ADP #96-05. The following deals with the practical application of the principle, both in terms of how providers should establish and publish fee schedules and in how auditors evaluate compliance.

Basic Requirements

There are several items that must be understood regarding fee schedules and customary charges. This information is contained in the Provider Reimbursement Manual (PRM), also known as HCFA-15.

! Medicare/Medicaid reimbursement procedures presume that Medi-Cal providers have established charge (fee) schedules that are applied to all patients, including Medi-Cal eligible beneficiaries. However, most, if not all, of the Medi-Cal providers do not have charge schedules or the charge schedules are applied only to partial pay (county-subsidized) and/or private pay patients.

! Customary charges are those uniform charges listed in a provider's charge schedule and applied consistently to most private pay patients (PRM §2604.3).

! If no charge schedule exists, customary charges may also be the most frequent or typical charge imposed and collected from a substantial percentage of private pay patients (PRM §2604.3).

! Customary charges may also be reduced if the provider fails to establish procedures to collect charges from private pay patients (PRM §2606.1).

An audit will calculate Medi-Cal charges based on customary charges to "patients liable for payment on a charge basis" or private pay patients. The calculated charge is then compared to actual allowable costs and the maximum rate with reimbursement based on the lowest amount.

For example, a Methadone clinic without a charge schedule charges private pay patients $200 a month. The $200 would be the customary charge that would be used to determine Medi-Cal charges. To calculate Medi-Cal charges, the number of Medi-Cal patients would be multiplied by $200.

Regardless of the structure of the private pay charge schedule, the audit will calculate Medi-Cal charges using the identical structure. For example, if the private charge schedule denotes a charge per visit, the Medi-Cal charge will be calculated on the per visit basis. If the private charge schedule denotes a charge per month, the Medi-Cal charge will be calculated on the per month basis.

Sliding-Scale Charge Structures

Under certain conditions and subject to maintenance of required documentation, the effect of the application of the lower of costs or charges principle may be negated. This may be accomplished by using a sliding-scale charge structure (PRM §2606.2D) which contains four conditions that must be met. When using sliding-scale procedures, all patients are charged the full or nondiscounted rate, but are assessed a lesser charge based on their ability to pay.

The charge schedule should be developed to consider the patient's income and expenses (Health and Safety Code, §11991.5(c)(3)). It is recommended that providers develop charge schedules using procedures which take into consideration income and family size (as a means of estimating anticipated expense levels).

From the audit perspective, there are some risks related to how providers utilize a sliding-scale charge structure, as follows:

- The charge levels, unless carefully established, might not be sufficient to enable the provider to recover the costs of services to the private pay patients. Resulting deficits cannot legitimately be made up by cost allocation procedures that inequitably distribute less costs to these patients and, therefore, more costs to Medi-Cal. Audit procedures will determine if costs are being equitably distributed.

- If properly utilized, patients should be assessed an array of charges based on their ability to pay. A seemingly more expedient approach of assessing all patients at a very low rate would be contrary to the purpose and intent of the sliding-scale charge structure. Under normal circumstances, one would not expect to see all patients being assessed the same rate; rather, one would expect various levels of assessment, including some at the full rate. During an audit, the amounts assessed will be reviewed and compared to required financial documentation. Should the amounts assessed be unsubstantiated by documentation, the Medi-Cal charge will be calculated using the customary charge.

Approval of the sliding fee schedule for non-Medi-Cal patients is not a responsibility of the Department. Therefore, providers are not required to submit these schedules for approval. However, the schedules must be designed to withstand the scrutiny of a Federal or State audit.

If you or your staff have questions regarding the PRM material, please call Andy Dill, Assistant Audit Manager, at (916) 324-6406 or Lanis Clark, Assistant Audit Manager, at (916) 324-2200.

Sincerely,

GLORIA J. MERK, II
Deputy Director
Program Operations Division

cc: Wagerman Associates, Inc.